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**In The
Supreme Court of the United States**

HOUSTON COLLINS, JR.; SHARLET BELTON
COLLINS; ROBERT EARL COLLINS; VELMA JEAN
COLLINS; DARRELL CALENDER; LARRY VALLIERE;
GREGORY TOLLIVER; SHERMAN TOLLIVER;
DWAYNE KEMP, CHRISTOPHER WONG WON,
DETRON BENDROSS, BERNARD VERGIS, ASHLEY
GRUNDY, and EDDIE YOUNGBLOOD, III, individually
and a.k.a 2 Live Crew; TIMOTHY VINCENT YOUNG;
PRISCILLA MORRIS; LUTHER JEFFERSON;
LEE ESTER CRUMP; and LINDA CHRISTMAS,

Petitioners,

vs.

FRANK AINSWORTH; COPIAH COUNTY, MISSISSIPPI,
SHERIFF DEPARTMENT; COPIAH COUNTY,
MISSISSIPPI; HINDS COUNTY, MISSISSIPPI SHERIFF
DEPARTMENT; and RANKIN COUNTY,
MISSISSIPPI SHERIFF DEPARTMENT,

Respondents.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit**

**REPLY TO BRIEF IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI
BY HINDS COUNTY, MISSISSIPPI SHERIFF
DEPARTMENT AND RANKIN COUNTY,
MISSISSIPPI SHERIFF DEPARTMENT**

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PETITIONERS' REPLY

1. Respondents, the Hinds County, Mississippi Sheriff's Department and the Rankin County, Mississippi Sheriff's Department (the "Hinds and Rankin Respondents"), repeat the same argument as Respondents, Frank Ainsworth and the Copiah County, Mississippi Sheriff Department ("Ainsworth"), on the question concerning *Heck v. Humphrey*, 512 U.S. 477 (1994). Petitioners have already responded to this argument in their Reply to Ainsworth's Brief in Opposition. There is no need to respond further.

2. The Hinds and Rankin Respondents attempt to distinguish the facts in the present case from the facts in *Council for Periodical Distributors v. Evans*, 827 F.2d 1483 (11th Cir. 1987). [Hinds and Rankin Respondents Brief in Opposition, pp. 9-15]. However, the seminal facts in the two cases are very similar. In the present case, although the Hinds County and Rankin County sheriffs were unaware of the illegal reason for the checkpoints, they knew that they were sending deputies to assist in roadblocks and checkpoints at a 2 Live Crew Concert. These sheriffs voluntarily sent deputies to assist with the checkpoints. Importantly, the deputies they sent were present and assisted Sheriff Ainsworth's deputies in shutting down the Concert before 2 Live Crew performed. (R. 1028-1029). In other words, the deputies loaned by the Hinds and Rankin Respondents participated in the prior restraint on the 2 Live Crew Concert. Ainsworth testified that he told the sheriffs from the other counties, including Hinds and Rankin, about the Concert and that he needed assistance to conduct the roadblocks and checkpoints. App. 58-60 to Pet. for Cert. In that regard, the facts in this case are not distinguishable from the facts in *Council for Periodical Distributors v. Evans*, *supra*.

3. The Hinds and Rankin Respondents argue that Petitioners are not entitled to a permanent injunction because they have not succeeded on the merits against them. [Hinds and Rankin Respondents Brief in Opposition, pp. 10-14]. The Fifth Circuit indicated in its earlier opinion that Petitioners will succeed on the merits against Sheriff Ainsworth if the record facts are viewed in their favor. *Collins v. Ainsworth*, 382 F. 3d 529 (5th Cir. 2004), App. 15-43 to Pet. for Cert. Petitioners only ask that any injunctive relief granted against Ainsworth apply to any other law enforcement officers who participated with him in the prior restraint. As the Eleventh Circuit held in *Council for Periodical Distributors v. Evans*:

We note at the outset that the City and its police chief were appropriate defendants in the plaintiffs' suit to enjoin the prior restraint. A city police officer, assigned by the police chief's predecessor, was a member of the task force and was involved in a great deal of the groundwork in preparation for the illegal prior restraint. The officer, Corporal Brock, is mentioned repeatedly throughout the transcript of the hearings below. He was present at the meeting at which the magazine retailers were intimidated. Thus, it is without question that the district court appropriately included the City and its police chief in its injunction. Thus, even if they were only minor players, they were in fact players in the unconstitutional actions and were correctly enjoined from continuing those actions.

Id., at 1486. In that regard, Petitioners have shown a likelihood of success against Ainsworth and those who participated with him in the unconstitutional prior restraint.

4. The Hinds and Rankin Respondents also argue that money damages is the only appropriate remedy and would fully compensate Petitioners for any harm they are likely to suffer in the future if an injunction does not issue and Respondents refuse to allow future concerts to occur. That is not so. Injunctive relief is an appropriate remedy for prior restraint activities by public officials. See, *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546 (1975); *Ward v. Rock Against Racism*, 491 U.S. 781 (1989).

5. Finally, the Respondents argue that they are entitled to damages because Petitioners' petition for writ of certiorari is frivolous. It is not. It raises two important issues which should be resolved by this Court. This case does not involve a frivolous appeal. The case presents justiciable questions for review. Therefore, it is not frivolous and damages should not be assessed against Petitioners. Compare, *Austin v. United States*, 513 U.S. 5 (1994) (*per curiam*).

CONCLUSION

The petition for writ of certiorari should be granted, and the judgment and opinion of the United States Court of Appeals for the Fifth Circuit should be reversed.

Respectfully submitted,

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